

These are the tentative rulings for civil law and motion matters set for Tuesday, September 23, 2014, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Monday, September 22, 2014. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: Effective July 1, 2014, all telephone appearances will be governed by Local Rule 20.8. More information is available at the court's website, www.placer.courts.ca.gov.

EXCEPT AS OTHERWISE NOTED, THESE TENTATIVE RULINGS ARE ISSUED BY COMMISSIONER MICHAEL A. JACQUES AND IF ORAL ARGUMENT IS REQUESTED, ORAL ARGUMENT WILL BE HEARD IN DEPARTMENT 40, LOCATED AT 10820 JUSTICE CENTER DRIVE, ROSEVILLE, CALIFORNIA.

1. M-CV-0057757 Thunderbolt Holdings Ltd., LLC vs. Eid, Mariam

The Motion to Substitute Party is dropped. No moving papers were filed.

2. M-CV-0060809 Pacific Air Cond./Heating, Inc. vs. Dynamic Heating/Cooling

Petitioner Pacific Air Conditioning & Heating, Inc.'s Petition to Confirm Arbitration Award is granted.

3. S-CV-0029335 Venue at Galleria Homeowners Assoc. vs. Villas at Galleria

The Motion for Summary Judgment is dropped. No moving papers were filed.

4. S-CV-0030565 Lee, Richard, et al vs. Paul Hills Construction, Inc.

Plaintiffs' unopposed Motion to Quash Subpoenas is granted.

Defendant Paul Hills Construction, Inc. has served two deposition subpoenas for the production of business records. The subpoenas seek financial records and other documents relating to plaintiff's business, Lee Institute of Plastic Surgery, and MOB 5, an organization formed to develop the medical building in which plaintiff's business is located. The subpoenas appear to have no relevance to the instant action, which arises from construction defect claims relating to the construction of plaintiff's residence, and as the motion is unopposed, defendant fails to establish good cause for production of the documents requested pursuant to the subject subpoenas. Accordingly, plaintiffs' Motion to Quash Subpoenas is granted.

5. S-CV-0030677 Macy's West Stores, Inc., et al vs. Roseville Shoppingtown

Plaintiffs' applications for Robert H. Nichols to appear as counsel *pro hac vice* was dropped by the moving party.

6. S-CV-0032679 International Fidelity Insurance Co. vs. Tolani, Tony, et al

Defendants' Motion to Bifurcate and Order Proceedings shall be deferred to be heard by the trial judge assigned to this matter.

If oral argument is requested, the parties' requests for telephonic appearance are granted. All telephonic appearances are governed by Local Rule 20.8.

7. S-CV-0034010 Beadle, Marva vs. Allied Trustee Services, et al

The Motion to Set Aside Trustee's Sale is dropped. No moving papers were filed.

8. S-CV-0034097 Ventura, Anthony vs. Rice, Jacqueline, et al

Defendants' Motion to Set Aside Entry of Default is granted.

Plaintiff filed the complaint in this action on January 2, 2014. On June 17, 2014, plaintiff filed proofs of service indicating that defendants Tawnee Preisner and Jason Preisner were both served by personal service. Defendants did not file answers to the complaint within the time required by law, and their defaults were entered.

The filing of a proof of service creates a rebuttable presumption that service was proper. *Floveyor Int'l, Ltd. v. Superior Court* (1997) 59 Cal.App.4th 789, 795. Defendants have filed declarations in connection with this motion stating under penalty of perjury that they were never personally served. Both defendants state that the summons and complaint were left on an unattended reception desk at their business.

Defendants' motion is unopposed and the court finds that defendants have successfully rebutted the presumption of proper service.

As defendants were never properly served with the summons and complaint, any default or default judgment taken against them would be void. The court has the power to set aside a void judgment or order as a matter of law. Code Civ. Proc. § 473(d). The defaults entered against defendants Tawnee Preisner and Jason Preisner are hereby set aside.

Defendants shall file and serve answers or other responsive pleadings to the complaint by no later than October 3, 2014.

9. S-CV-0034317 Haycock, Douglas Jack vs. JPMorgan Chase Bank, N.A., et al

Appearance required on September 23, 2014 at 8:30 a.m. in Department 40.

10. S-CV-0034647 Muegge, Tracy, et al vs. Anderson, Lawrence C.

Defendant's Motion to Strike Punitive Damages is granted with leave to amend. Plaintiffs shall file and serve their first amended complaint by no later than October 3, 2014.

11. S-CV-0034713 Pape Machinery, Inc. vs. Mid-Valley Plumbing Contractor's

Plaintiff's Motion to Strike Defendant Mid-Valley Plumbing, Inc.'s Answer is dropped as moot in light of the filing of a substitution of attorney on September 15, 2014.

12. S-CV-0034871 Hawkins, John - In Re the Petition of

The Petition to Compromise Minor's Claim is granted. If oral argument is requested, appearance of the minor is excused.

13. S-PR-0007399 Blake, Robert - In Re the Estate of

The Motion to Quash Summons was continued to November 4, 2014 at 8:30 a.m. in Department 40.

These are the tentative rulings for civil law and motion matters set for Tuesday, September 23, 2014, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Monday, September 22, 2014. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.